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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In Re Applications of)

RAYMOND W. CLANTON)

LOREN F. SELZNICK)

MM Docket No. 93-87

For Construction Permit)
New FM Station)
El Rio, CA)

To: THE REVIEW BOARD

CONSENT MOTION FOR EXTENSION OF TIME

Loren F. Selznick respectfully requests a three week extension of time -- up to and including January 3, 1995 -- in order to file Exceptions to the Initial Decision, FCC 94D-13, released November 10, 1994. ^{1/}

Selznick respectfully submits that there are special circumstances in this case that establish "good cause" for the requested extension of time.

First, the two parties to this comparative proceeding agreed last weekend to a settlement of the case. Settlement discussions were initiated by Mr. Clanton. Precise terms were agreed to during a phone conversation on December 4, 1994. On Monday, December 5, the undersigned counsel was notified by Ms. Selznick

^{1/} Monday, January 2, 1995 is a federal holiday.

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of the settlement ^{2/} and was told that Mr. Clanton would be getting back to her that day about the precise amount of the proposed "down payment" at closing on a promissory note. Mr. Clanton did not call on Monday. On Tuesday morning, Mr. Clanton called Ms. Selznick twice but the phone connection was so poor that Ms. Selznick understood only that (i) Mr. Clanton no longer agreed to the settlement terms that he had first agreed to and (ii) he would call back that evening. On Wednesday, December 7, 1994, at 1:49 PM EST, Mr. Clanton left a voice mail message at Ms. Selznick's law office in New York. Mr. Clanton informed Ms. Selznick that personal matters now "precluded" a settlement. Ms. Selznick tried without success to reach Mr. Clanton by phone. Ms. Selznick immediately informed undersigned counsel of the call. This motion follows. ^{3/}

Mr. Clanton's proposed settlement and his belated "withdrawal" of the settlement have effectively precluded Selznick and her counsel from executing their carefully designed plan for drafting, editing and filing Exceptions by next Monday, December 12,

^{2/} All work on the Exceptions was halted immediately. As a practical matter, counsel and Ms. Selznick previously had agreed because of their respective heavy litigation schedules that Ms. Selznick -- a litigation attorney in New York -- would work on a first draft of the Exceptions during the weekend of December 3-4, 1994 and that she and counsel would continue to edit and refine the Exceptions after counsel's return to Washington on December 5, 1994, from the prior week's business commitments in California.

^{3/} The Board was immediately notified by phone that this motion would be forthcoming.

1994. ^{4/} Not only did Ms. Selznick rely on the settlement with Mr. Clanton in foregoing any work on the Exceptions during a critical period last weekend ^{5/} and not only did her counsel rely on the settlement for three critical days this week but, moreover, her FCC counsel has undertaken other litigation commitments since Monday, December 5, 1994 in reliance on the settlement with Mr. Clanton. ^{6/} Accordingly, movant is now in the anomalous position of requesting an extension of time in order to spend virtually the entire Christmas-New Year's Week working on Exceptions instead of pursuing more "spirited" matters.

Second, Mr. Clanton has consented to the requested extension and his counsel has authorized the undersigned to expressly represent that fact to the Board in this Consent Motion.

Third, movant respectfully submits that a grant of a three-week extension would not unduly delay this three-year-old pro-

^{4/} See note 2, supra.

^{5/} Id.

^{6/} For example, undersigned counsel is involved in continuing litigation with Fox Television Stations Inc., as this Board has been aware. In view of the filing by Fox/Murdoch on Monday, December 5, 1994, undersigned counsel has made commitments for the next three business days -- through next Monday -- that already have required and will continue (unfortunately) to require that counsel work dozens of overtime hours to meet the needs of just this one client. In addition, undersigned counsel will be preoccupied during the ensuing three weeks with a change in his professional relationship [which is disclosed publicly herein for the first time in order to serve the best interest of his client]. Moreover, Ms. Selznick has pre-existing litigation commitments at her law firm next week and the week prior to the Christmas Holidays.


ceeding nor, hopefully, the Board's schedule for deciding this case.

Finally, Ms. Selznick submits that a three-week extension of time might also serve the public interest in affording Mr. Clanton a further (albeit brief) opportunity to resolve whatever personal matters have unexpectedly "precluded" the settlement that was agreed to last weekend. ^{1/} Although Ms. Selznick shall no longer forego any work on the Exceptions absent a written settlement agreement with Mr. Clanton, a three week extension of time affords Mr. Clanton with sufficient opportunity to finalize a written settlement agreement if he so chooses.

CONCLUSION

In view of the foregoing, "good cause" has been shown and the Motion should be granted. ^{2/}

Respectfully submitted,



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Counsel for Loren Selznick

December 8, 1994

cc: Jerrold Miller, Esq.
Charles Dziedzic, Esq.

^{1/} The undersigned yesterday expressly requested the involvement in the direct, principal-to-principal settlement discussions of Mr. Clanton's experienced FCC counsel, who apparently was uninvolved in the settlement reached last weekend.

^{2/} A Sworn Statement executed this date by Ms. Selznick is attached as Appendix A. The original copy of that Statement will be available to the Board upon request therefor.

Appendix A

SWORN STATEMENT OF LOREN SELZNICK

My name is Loren Selznick and I am an applicant in FCC Docket No. 93-87 for a new FM station at El Rio, CA.

I have read the foregoing Consent Motion for Extension of Time and I affirm, under penalty of perjury, that all factual matters relating to both the settlement reached last weekend with Raymond Clanton and to my need for an extension of time within which to work with my FCC counsel in drafting the Exceptions referred to therein are true and correct.

December 8, 1994


Loren F. Selznick